

**MINUTES
LIVESTOCK FACILITY SITING REVIEW BOARD
MEETING
May 16, 2008
Boardroom 106, 2811 Agriculture Drive, Madison, WI**

Chair Holte called the meeting to order at 10:15 a.m. LFSRB members present were Bob Selk, Andy Johnson, Lee Engelbrecht, Bob Topel, Fran Byerly, and Jerry Gaska. A quorum was present. DATCP staff present were Cheryl Daniels, Lori Price, and Sue Porter.

Call to order

Holte stated the meeting agenda was publicly noticed, as required, and then presented the agenda for approval. Selk moved to approve the agenda. Topel seconded the motion. The motion passed.

Holte presented the April 18 and May 12, 2008, meeting minutes for approval. Gaska made a motion to approve both sets of minutes as written, and Engelbrecht seconded the motion. The motion passed.

Ronald S. Stadler v. Crawford County, Docket NO. 08-L-01: Motion for reconsideration including applicability of Wisconsin Statute 227.49 and procedure for rehearing cases, possible LFSRB re-deliberation on case, and LFSRB decision.

Daniels reported that Roth's attorney filed a late submission in this case. Both Stadler, in an e-mail, and Midwest Environmental Advocates, in a letter, objected to these filings. Although Daniels noted that the Board was clear on its policy for regular late submissions and she did not forward the submission to the Board, she wanted to bring this to the Board's attention. Selk stated that he thought the Board was clear on these late submissions but, to make it absolutely clear, made a motion for the LFSRB to decline receiving the late submissions into the record. Johnson seconded the motion. The motion passed.

The LFSRB then discussed the motion for reconsideration. Board members discussed accepting position statements after a decision is made, caution on micro-managing the board's bylaws, the board as a quasi-judicial body that makes decisions based on the record reviewed at the local level, reconsidering a case without changing the decision, whether the motion for reconsideration should be brought by a LFSRB member versus a party in the case, accepting technical assistance on a question of fact in the record versus accepting oral arguments, and the board's authority being broader than Wisconsin Statute 227.49. Selk made a motion that the LFSRB finds that it does have the authority to reconsider the initial decision in this case before it is finalized. Johnson seconded the motion. The motion passed. Board members then discussed being uncomfortable with their earlier decision, wanting to insure the record is internally consistent before making a final decision, and whether they should reconsider this case. Topel made a motion to reconsider this case. Byerly seconded the motion. The motion passed.

In their re-deliberation of this case, the board discussed whether to make a record completeness determination, animal unit calculations in the application versus the nutrient management plan, volume of manure as number to consider, and whether there was enough land base to spread manure. The board decided that after the lunch break, they would have DATCP staff provide technical assistance on the reasons for the differences in the number of animal units in the application versus the newest version of the nutrient management plan in SNAP-Plus.

After lunch, Porter displayed the most recent version of the Roth nutrient management plan in SNAP-Plus and explained the animal unit calculations for different swine categories, the yearly amount of manure the farmer is planning for through 2012, the reason for the difference between the original estimated amount of manure and the actual amount, and how the phosphorus information would indicate that no spreading could take place in certain fields and other "red flags" to look for in the application of manure. After this presentation, the board members discussed whether the application should be modified to include information the local government discussed in other formats but did not include on the application. Daniels reviewed part of the local decision that indicates a condition where an updated nutrient management plan must be submitted on a yearly basis for approval by the Crawford County Land Conservation Committee. The board members furthered discussed the number of acres for land spreading and maximum gallons of manure allowable under the permit. Daniels reviewed the points made by the board in the original draft decision, and the board reviewed the original challenge of the nutrient management plan not meeting the NRCS 590 standards. Topel made a motion that the challenge in Stadler v. Crawford County is not valid because the application as modified by the submissions made to Crawford County meets Section ATCP 51.34 of Wisconsin Administrative Code for approval. Johnson seconded the motion. The motion passed with one LFSRB member, Lee Engelbrecht, voting "nay" on the motion.

Larson Acres, Inc. v. Town of Magnolia, Docket No. 07-L-01: update on circuit court appeals

Daniels reported that the parties met with Rock County Circuit Court Judge Welker on May 9th, and the judge set dates to file briefs. The petitioners have 60 days to file briefs, the board (respondent) has 60 days after that date to file a brief, and then there will be a reply brief period of 21 days for the petitioners. The LFSRB should expect to meet with their litigation attorney mostly likely at the August 15th meeting. This meeting will be held in closed session.

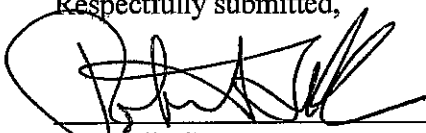
Board schedule and future agenda items: next meeting scheduled for June 20, 2008, and future agenda items

Daniels reported that she will write up the draft decision made at today's meeting, send it to the LFSRB members for review, and set a date they can meet by teleconference to review and finalize the decision. This meeting will take place before the regularly scheduled meeting on June 20th.

Adjourn

Engelbrecht moved to adjourn the meeting, and Byerly seconded the motion. The motion passed. The meeting ended at 1:35 p.m.

Respectfully submitted,



Bob Selk, Secretary

3 June 2008
Date

Recorder: LP